

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.10971 of 2014 (O&M)

Date of Decision: 20.03.2017

Municipal Corporation, Ludhiana

... Petitioner

Versus

The Presiding Officer, Industrial
Tribunal, Ludhiana and another

... Respondents

CORAM:- HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr. Harsh Aggarwal, Advocate,
for the petitioner.

Mr. Sharwan Sehgal, Advocate,
for respondent No.2.

RAJIV NARAIN RAINA, J.

1. The documented period of service in the second spell, which has no concern with the first spell as a Beldar separated by long break, is from July 12, 1999 to May 31, 2001. Iqbal Singh-respondent was engaged as a Clerk in the Municipal Corporation, Ludhiana to work during the relevant spell of employment.

2. The workman asserted before the Labour Court that he had worked till December 17, 2001. Even given these seven extra months the total period of service is no more than two and a half years on a public post in Class-III service of the Corporation. His entry into service was not by open competition and in consonance of Articles 14 & 16. There is no question of regularization of such services. The issue that went to trial before the Labour Court was whether the termination of services of respondent Iqbal Singh were justified or not. On evidence, the Labour Court

has found violation of the provisions of Section 25-F of the ID Act, 1947 on account of want of evidence of payment of issuing notice and paying thirty days wages in lieu of notice and retrenchment compensation at the time of termination. Accordingly, the Labour Court set aside the termination order as illegal and granted reinstatement with continuity and 50% back wages.

3. The Municipal Corporation is before the Court assailing the award dated September 11, 2013.

4. It is the contention of the learned counsel Mr. Harsh Aggarwal that reinstatement with continuity and 50% back wages are not justified given the nature of post, the character of entry to service and the length of service being only two and a half years. He cites Assistant Engineer, Rajasthan Dev. Corp. & Anr vs. Gitam Singh, 2013 STPL(Web) 84 SC to *inter alia* contend that reinstatement will not follow automatically even in the case of declaration of illegal termination. The Court would still have to look at many relevant factors before reaching a conclusion as to discretionary relief fit to be awarded.

5. Mr. Sehgal for the workman is not in a position to deny the fact that the period of service was brief and his effort at supporting the award and resisting the petition is not convincing to this Court in support of the award as decreed.

6. On a consideration of the entire matter and having heard the learned counsel, this Court is of opinion that this is an appropriate case for payment of compensation in lieu of reinstatement to serve the ends of justice. In matters of compensation packages this Court remains guided by case law some of which are BSNL v. Man Singh, (2012) 1 SCC 558 [₹ 2

Lakhs for no more than 2 years of service] and the Division Bench of this Court in Municipal Council, Dina Nagar vs. Presiding Officer, Labour Court, Gurdaspur and another, 2015 (1) RSJ 765, the last of which has recommended as a rule of thumb an amount of ₹1 lakh as just and adequate compensation for every year of completed service.

7. Applying the yardsticks I should think that compensation in this case should be ₹2 lakhs instead of rough rule which would have brought ₹ 2.5 lakhs. This is because the workman in his cross-examination admitted that his services were terminated on May 31, 2001 which makes the total period of service, one month short of two years.

8. In view of the above, the petition is partly allowed. Reinstatement with continuity of service and 50% back wages as awarded is set aside. The award is modified to bring compensation of ₹.2 lakhs to the workman in lieu of reinstatement. The amount be paid within three months from the date of receipt of a certified copy of this order, either from the Court or from the respondent whichever is earlier. If payment is not made within three months then the amount would earn interest @12% per annum till payment.

(RAJIV NARAIN RAINA)
JUDGE

20.03.2017
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Whether speaking/reasoned Yes

Whether reportable No